REMARKS

Claims 2 and 5-14 are pending. The claims have been amended to more distinctly specify particularly preferred embodiments of the invention, and to remove reference to nonelected subject matter, and not to distinguish from the cited art. No new matter has been added. Reconsideration is requested.

Claims 2, 5-7 and 9-14 have been rejected under 35 USC § 103(a) as being unpatentable over Poletto et al. (U.S. Pat. 3,801,594). This rejection is traversed for the following reasons.

Applicants agree that the present application claims optionally substituted indol-3-glyoxylamide derivate compounds having pyridyl or chinolyl as a substituent in the R1 position and that these compounds have utility as immunodilator and anti-asthmatic agents. However, applicants do not agree with the Examiner's interpretation of Poletto et al.

U.S. Patent 3,801,594 at column 8, table II, lines 10-63 describes 2 (4, 6 or 7)-dimethyl-5-methoxyindole-3-glyoxylamides in which R_1 means a compound in a restricted sense:

R_1 means in	
examples 19, 20	pyrrolidino
example 21	hexamethylene imino
examples 22, 23, 24	morpholino
examples 25, 26, 27	3,6-ethanohomopiperidino
example 28	1,2,5,6-tetrahydropyridino
example 29	2,5-ethanopiperidino
examples 30, 31, 32	3-pyrrolinyl

example 33 3,7-methanoheptamethylene imino

The Examiner asserts that Poletto describes for R_1 pyridinyl or quinolyl (especially lines 46-49). Applicants strongly disagree.

Poletto describes in example 28 the compound 1,2,5,6-tetrahydropyridino (but never pyridyl) and in example 33 the compound 3,7-methanoheptamethyleneimino (but never chinolyl). The present claims do not include a polyhydropyridino compound for R_1.

Poletto describes special compounds in all examples but never groups.

Applicants traverse the Examiner's position on page 3, second paragraph that a skilled artisan would have been motivated to do so in order to prepare additional anti-asthmatic and immunodilatory compounds. Poletto did not claim the activity of our compounds. Poletto on the contrary claimed CNS depressants, analgesics, tranquilizers diuretic and anti-inflammatory agents.

For all of these reasons, withdrawal of the §103 rejection is submitted to be in order and is requested.

Claims 2, 9, 10 and 12-14 have been objected to as including nonelected subject matter. To the extent to which this objection may be considered applicable to the amended claims, it is respectfully traversed.

With respect to claim 2, the compounds at page 32, lines 1-8 of the present specification correspond with examples 14, 15 and 16 and with the elected subject matter because R_1 corresponds to pyridine. The compounds at page 32, lines 10-11 and 15-16 have been cancelled. These compounds correspond to examples 17 and 22.

With respect to claims 9, 13 and 14 the recitation of R_1 being pyrimidinyl has been deleted, as well as the recitation of R_1 and R_2 forming piperazine and homopiperizine.

In claim 10, the recitation of histidyl and prolyl has been deleted.

Withdrawal of the objection is respectfully requested.

All objections and rejections having been addressed, it is believed that the application is in condition for allowance, and Notice thereof is respectfully requested.

Respectfully submitted,

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